

Application No. : 10/660,945
Filed : September 12, 2003

REMARKS

Claims 1 – 5 and 11 – 13 were pending in the application. By this paper, Applicant has amended Claims 1 – 5 and 11 – 13, and added new Claims 14 – 29. Accordingly, Claims 1 – 5 and 11 – 29 are presented for examination herein.

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Request for Continued Examination (RCE)

Applicant submits concurrently herewith a request for continued examination of the present application.

10 *Amendment to Specification*

Paragraph [0001] of the specification has been amended to update the priority claim of the present application to include the issued patent number of the parent application. No new matter has been added by virtue of this amendment.

15 *Statutory Double Patenting Rejections*

The Examiner has rejected Claims 11 – 13 under U.S.C. 101 as claiming the same invention as that of Claims 10 – 13 of U.S. Patent No. 6,691,096. Applicant has herein amended Claims 11 – 13 of the present application to claim, *inter alia*, a “a storage device, comprising: ...a computer readable medium...”, an apparatus claim, while Claims 10 – 13 of U.S.

20 Patent No. 6,691,096 comprise method claims.

Applicant respectfully submits that the aforementioned amendment overcomes the Examiner’s statutory double patenting rejection.

Non-Statutory Double Patenting Rejections

25 The Examiner has rejected Claims 1 – 5 and 11 – 13 on the ground of non-statutory double patenting over Claims 1 – 4 and 9 – 13 of U.S. Patent No. 6,691,096. Applicant herein respectfully requests that the Examiner hold all double patenting rejections in abeyance until newly submitted Claims 1 – 5 and 11 – 29 have been fully considered.

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§101 Rejections

The Examiner has rejected Claims 1 – 5 and 11 – 13 on the grounds that the claims are not directed to statutory subject matter. Applicant has herein amended Claims 1 – 5 and 11 – 13 to recite a “storage device comprising: ...a computer readable medium”. Applicant submits that the aforementioned amendment comprises statutory subject matter, and respectfully requests that the Examiner’s 35 U.S.C. 101 be withdrawn.

§102 Rejections

Per paragraph 13 of the Office Action, Claims 1 – 5 and 11 – 13 stand rejected as being anticipated by Looney et al. (U.S. Patent No. 6,232,539, hereinafter “Looney”).

Claims 1 and 11 – The Examiner alleges that Looney anticipates Applicant’s Claim 1 and Claim 11 inventions. Applicant respectfully traverses.

Specifically, Applicant believes the Examiner has not properly applied the broadest reasonable interpretation standard to Applicant’s claimed inventions. **See e.g. MPEP § 2111.** While Looney teaches a music organizer and entertainment center that provides a center having a microprocessor, sound card functions and high-volume data storage and retrieval units for playing back music according to a variety of predetermined categories, it is unclear to Applicant how the Examiner is interpreting terms such as “AV/C descriptor data” to come to the conclusion that Looney anticipates Applicant’s claimed inventions.

In Applicant’s view, the Looney disclosure is only superficially similar in that it deals with audio visual technology generally; however, the various categories and sub-categories listed by the Examiner (i.e. title, artist, date, etc.) cannot, in Applicant’s view, be fairly characterized as “AV/C descriptor data”. The Examiner appears to be interpreting Applicant’s claimed language to mean something akin to “A/V descriptor data” which is clearly not what Applicant has claimed.

Applicant has however herein amended Claims 1 and 11 to more explicitly describe and point out what Applicant regards as their invention, namely by claiming, *inter alia*, one or more containers containing audio visual control descriptor data. Applicant submits that Looney does not teach nor remotely suggest Applicant’s claimed inventions of Claim 1 and Claim 11.

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Claim 11 – With respect to Claim 11, Applicant believes the Examiner has not addressed each and every limitation claimed by Applicant in order to establish a *prima facie* case for anticipation. See e.g. MPEP § 2131. Specifically, Applicant does not believe the Examiner has addressed, *inter alia*, the claim element “*initialize compilation attributes*”. Applicant respectfully
5 requests the Examiner provide support to demonstrate that Looney teaches each and every limitation present, and hence anticipates Applicant’s Claim 11 invention.

New Claims

By this paper, Applicant has added new Claims 14 – 29. Applicant submits that these
10 new claims distinguish over the art of record, define patentable subject matter, and further introduce no new matter.

Specifically, support for these newly added Claims can be found as follows:

Claim 14 – Support for new Claim 14 can be found, *inter alia*, at paragraph [0031] of
15 Applicant’s specification as filed.

Claim 15 – Support for new Claim 15 can be found, *inter alia*, at paragraph [0031] of Applicant’s specification as filed.

Claim 16 – Support for new Claim 16 can be found, *inter alia*, at paragraph [0031] of Applicant’s specification as filed.

Claim 17 – Support for new Claim 17 can be found, *inter alia*, at paragraph [0038] of
20 Applicant’s specification as filed.

Claim 18 – Support for new Claim 18 can be found, *inter alia*, at paragraphs [0033] to [0036] of Applicant’s specification as filed.

Claim 19 – Support for new Claim 19 can be found, *inter alia*, at paragraphs [0024] –
25 [0027], [0058] and [0059] of Applicant’s specification as filed.

Claim 20 – Support for new Claim 20 can be found, *inter alia*, at paragraphs [0027] to [0029], [0032], and [0054] to [0058] of Applicant’s specification as filed.

Claim 21 – Support for new Claim 21 can be found, *inter alia*, at paragraph [0028] of Applicant’s specification as filed.

Claim 22 – Support for new Claim 22 can be found, *inter alia*, as subject matter present
30 in previously submitted Claims 1 and 5.

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Claims 23-29 - Claims 23-29 are generally directed to subject matter relating to one or more of the claims previously discussed.

Other Remarks

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.


Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

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